

For purposes of the Retailers' Occupation Tax regarding the reinstatement of the graphics arts machinery and equipment exemption, the date of delivery of the equipment will determine the date of the sale. See Emergency Regulations 86 Ill. Adm. Code 130.101 and 130.325. (This is a GIL.)

November 29, 2004

Dear Xxxxx:

This letter is in response to your letter dated August 16, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Our company rebuilds used printing equipment and sells it to printers as an alternative to new equipment. For years we were operating under the graphic arts exemption within Illinois and not having to charge sales tax on equipment sold to customers within Illinois. With the repeal of the exemption, sales of our equipment became taxable. Now that the exemption has been reinstated we seek clarification on the following questions:

1. The date range for which equipment of this type will be taxable is July 1, 2003 through August 31, 2004 ?
2. What constitutes purchase date? Is it the date the contract is signed or the date the equipment is shipped?
3. If a contract is signed within the date range indicated in # 1 above, but the equipment ships after September 1, 2004 is the sale taxable?
4. If a customer has made progress payments, which include sales tax, on a project up until the date of re-instatement, but at the date of reinstatement the equipment has not yet shipped, is the customer entitled to a refund of taxes paid up to that point?

The questions above really all ask the same question, that is, for equipment sales made during the repeal period July 1, 2003 to August 31, 2004, are there any circumstances

under which a customer would be entitled to a refund of sales taxes paid on the purchase of equipment which qualifies for the graphic arts exemption?

If you have any questions or need to speak with me directly I can be reached at ##.

DEPARTMENT'S RESPONSE:

As you are aware, through June 30, 2003, the Retailers' Occupation Tax did not apply to retail sales of machinery and equipment to be used in graphic arts production. See 86 Ill. Adm. Code 130.325. The exemption for retail sales of graphic arts machinery and equipment was repealed, effective July 1, 2003, and was once again reinstated, effective September 1, 2004.

At this time, an emergency regulation has been instituted, to reinstate the exemption for sales of machinery and equipment used in graphic arts production from Retailers' Occupation Tax liability. The sale of machinery and equipment to be used in graphic arts production is not subject to Retailers' Occupation Tax liability, effective September 1, 2004. Please see the Department's Emergency Regulation 86 Ill. Adm. Code 130.325, which may be viewed on the Department's internet website.

The Retailer's Occupation Tax is incurred on the gross receipts from the sale of tangible personal property at the tax rate in effect on the date of delivery of the property. If delivery occurs after the tax rate changes, and if receipts were received before the date of the rate change, and tax was paid on the receipts when received by the seller, no additional tax will be due or credit allowed because of the delivery of the property after the change in rate. See 86 Ill. Adm. Code 130.101(a).

Consistent with how tax rate changes are applied under the Retailers' Occupation Tax Act, the Department's emergency regulation directs that a sale of property will be deemed to be made as of the date of delivery of such property. See Emergency Regulations 86 Ill. Adm. Code 130.325. For example, if qualifying graphic arts equipment were delivered prior to September 1, 2004, in which payments were still being received after that date, then the entire sale, including all payments relative thereto, would be subject to Retailers' Occupation Tax, and does not qualify for the exemption. However, if qualifying equipment were delivered on or after September 1, 2004, then Retailers' Occupation Tax liability is only incurred on the payments received prior to September 1, 2004, and not on the payments received on or after September 1, 2004.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

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